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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,928	03/10/2004	Mark D. Krymsky	5336-3	3262

7590 09/06/2007
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EXAMINER

SNIDER, THERESA T

ART UNIT	PAPER NUMBER
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1744

MAIL DATE	DELIVERY MODE
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09/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/796,928

Applicant(s)

KRYMSKY ET AL.

Examiner

Theresa T. Snider

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/10/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. Figures 4-6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 132(figure 12). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:

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reference character “114” has been used to designate both filtering unit(page 9) and centrifugal filtering unit(page 9);

reference character “136” has been used to designate both expanded chamber(page 9) and sealed chamber(page 9);

reference character “130” has been used to designate both outlet nozzle(page 9) and returning channel(page 10).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities:

Exemplary of such:

Page 10, two occurrences, ‘expended’ should be replaced with ‘expanded’.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 6-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is unclear as to where in the specification is disclosed that the expanded chamber is located 'after' the filtering means(claim 6). Page 9, last paragraph discloses how upon start up of the fan air is sucked in through the nozzle from the chamber. This would lead one to believe that the chamber is located 'before' the filtering means.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claims 1 and 9, it is unclear as to the structural relationship of the 'managing unit' to the 'foot portion'.

Claim 9, it is unclear as to what is meant by the expanded chamber is located 'after' the filtering means.

Claim Rejections - 35 USC § 102

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
10. Claims 6 and 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by GB2338404.

GB2338404 discloses a foot portion having an expanded chamber with an intake nozzle and an outlet nozzle (fig. 1, #14, expanded chamber is unnumbered chamber between #16 and 14,18,15).

GB2338404 discloses a managing unit having support wheels and a handle (fig. 5, #51, handle being unnumbered structure above #58).

GB2338404 discloses a motor driven fan supported by one of the foot portion and managing unit and connected to the intake and outlet nozzle (fig. 1, #12).

GB2338404 discloses means for filtering within the system (fig. 1, #21).

GB2338404 discloses the expanded chamber is located after the filtering means and overlies and is in direct contact with a floor surface being cleaned (fig. 1, #21,13, expanded chamber is unnumbered chamber between #16 and 14).

With respect to claim 10, GB2338404 discloses the filtering means including a centrifugal filter (page 11, lines 22-25).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kern(2,018,791) in view of Nayfa et al.(3,931,662).

Kern discloses a similar cleaner however fails to disclose a handle.

Kern discloses a foot portion having an expanded chamber with an intake nozzle and an outlet nozzle, larger in cross section than the intake nozzle (fig. 1, #16, fig. 8, expanded chamber is unnumbered chamber between #48s, 15,40, nozzle with #40).

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Kern discloses a managing unit having support wheels (fig. 1, #2,3). Nayfa et al.

discloses a cleaner having a managing unit with support wheels and a handle (fig. 2, #11).

It would have been obvious to one of ordinary skill in the art to provide the handle of Nayfa et al. in Kern to allow an operator to guide the travel of the cleaner.

Kern discloses a motor driven fan supported by one of the foot portion and managing unit and connected to the intake and outlet nozzle (fig. 1, #19,20).

Kern discloses means for filtering within the system (page 3, lines 48-49).

15. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kern(2,018,791) in view of Nayfa et al.(3,931,662) as applied to claim 1 above, and further in view of JP2001-149277.

Kern in view of Nayfa et al. discloses a similar cleaner however fails to disclose a centrifugal filter.

JP2001-149277 discloses a cleaner having a centrifugal filter (fig. 1, #19). It would have been obvious to one of ordinary skill in the art to provide the centrifugal filter of JP2001-149277 in Kern in view of Nayfa et al. to allow for the most effective filtering of the air.

16. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB2338404 as applied to claim 6 above, and further in view of Kern(2,018,791).

GB2338404 discloses a similar cleaner however fails to disclose the outlet nozzle having a cross section larger than the intake nozzle.

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Kern discloses a cleaner having an expanded chamber with an intake and an outlet nozzle, wherein the cross section of the outlet nozzle is larger than that of the inlet nozzle (fig. 13, #16,15). It would have been obvious to one of ordinary skill in the art to provide the outlet nozzle of GB2338404 with a larger cross section, as disclosed in Kern, to prevent 'blasting' of dirt from the surface and allow for rapid removal of dirt from the surface.

Allowable Subject Matter

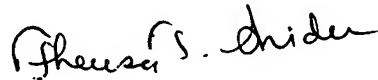
17. Claims 3-4 and 8-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Friday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in cursive script, appearing to read "Theresa T. Snider".

Theresa T. Snider
Primary Examiner
Art Unit 1744

8/30/07